

Administrative

Manual

AM-205-8

Employee Layoffs 09/17/09 (replaces 09/11/96)

SCOPE

This policy governs separation of City employees filling Civil Service or non-Civil-Service positions, who are notified that they are being laid off. Federal, state, and local laws prohibit an employer from considering factors such as age, gender, race, physical or mental disability, sexual orientation, marital status, national origin, or religion as criteria for layoff.

This policy is subject to amendment and interpretation as determined by the Employer and appropriate negotiated Contractual Agreement or Memorandum of Understanding.

This policy does not apply to appointed employees, to non-civil service employees or other employees who do not have permanent status. Laid off Civil Service employees may have reemployment rights for a previous classification, in accordance with the Civil Service Rules (See CSC Rules 39 and 52).

DEFINITIONS (For purposes of this policy)

Agency Head - A municipal officer appointed by the Mayor and subject to confirmation by the City Council.

Appointing Officer - The official or municipal service employee who has authority to make appointments to and removals from positions in a City organizational unit by reason of the provisions of the Baltimore City Charter, or of a statute or ordinance, or by reason of delegation by the appointing authority.

Contractual Employee - An individual having an independent agreement with the City of Baltimore that provides the terms and conditions by which the individual will provide services to the City.

Employee - Any person holding a position in the service of the Mayor and City Council of Baltimore. This includes permanent full-time, permanent part-time employees and temporary employees hired directly by the agencies.

Lay-Off - Termination of a permanent employee is considered to be a layoff if the employee's position is abolished or unfunded. The discharging of persons for the purpose of reducing the workforce of City employees, without fault of personnel involved.

Organization Unit - For purposes of layoff an, "organizational unit" is defined as:

- In an agency that has three (3) or more organizational levels, the level immediately below the

agency is normally designated as a **bureau**. The organizational level immediately below a bureau is normally designated as a **division**. The "Organizational Unit" is the division.

- In an agency that has two (2) organizational levels, the level below the agency is normally designated as a **division**. The "Organizational Unit" is the division.
- In an agency that has one (1) organizational level, "Organizational unit" refers to the agency.

A current description of layoff organizational units will be on file at the Office of the Labor Commissioner at all times. For layoff purposes, the number of organization levels within each department shall be determined by the agency and subject to the review of the Office of the Labor Commissioner, for any exceptions or resolution of complaints.

Permanent Full-Time Employee - A person who is appointed from an eligible list to a permanent position, and works a full workweek on a continuing basis.

Permanent Part-Time Employee - A person who is appointed from an eligible list to a permanent position, and works less than a full workweek on a continuing basis.

Probationary Employee – Classified employee who is selected from an open eligible list. A laid-off employee who is selected by a different agency from a re-employment list who has not completed the probationary period. A laid off employee who is selected by a different agency from a re-employment list. (A probationary period constitutes the 6-month segment of time during which an employee's competency to fulfill the duties of the position to which appointed is judged by the appointing officer.)

Termination Checklist – Is a form to be completed by the agency HR Officers, or designee, when an employee's employment with Baltimore City Government or an agency of Baltimore City Government has been terminated. The purpose of the Termination Checklist Form is to guide agency Human Resources Officers through the termination process to insure all required documents are completed.

Temporary/Seasonal Employee – A person who is paid on an hourly basis and not entitled to benefits, such as vacations, pension, health insurance, and other benefits. A "temporary" appointment is an employment status of limited duration.

Transfer - A transfer shall mean the appointment of an employee: (1) to a position in the same class **outside** the authority of the original appointing officer, or (2) to a position under the authority of the **same** appointing officer in a comparable class which requires similar knowledge, skills and abilities.

ALTERNATIVE TO LAYOFFS

Agency heads **may** reduce the impact or number of layoffs by taking the following actions:

- Reviewing and considering requests for voluntary lay-off, must have agency head approval.
- If the employee is eligible for a job removal retirement benefit the agency head should contact Employees' Retirement Systems or Fire and Police Employees' Retirement System.

- o If eligible for the retirement benefit the agency head must consult with the Mayor's Office, the Director of Human Resources and the Department of Law prior to certifying the job removal.
- Identifying employees who will retire, separate from City employment, transfer to other City agencies, or take a leave of absence in the near future leaving positions vacant. Agency heads are cautioned that salary savings may be offset by Unemployment Insurance, leave payouts and other costs of terminating employees.
- Transferring employees to positions in other classifications at the same or lower grade level for which the employee is qualified.
- Obtaining other sources of funding for existing positions, e.g., grants from federal, state, or private agencies.
- Reducing other personnel costs such as overtime.
- Terminating temporary employees.
- Terminating probationary employees.

Terminations of temporary and probationary employees are not considered layoffs. Temporary and probationary employees who have been terminated are not eligible for those benefits and privileges available to permanent employees being laid off.

Any alternatives above which require line item budget changes require the approval of the Bureau of the Budget and Management Research (BBMR).

SELECTION OF EMPLOYEES TO BE LAID OFF

Within a layoff organizational unit, agency heads must first select those classifications from which layoffs will occur. Selection of classifications may be based on the need for supervision, the need for the performance of the duties of the classification, or the need for special types of employees.

Within selected layoff organizational units and selected classifications, agencies must select employees to be laid off with the good of the public service as the primary consideration. The following employee characteristics govern such selection, subject to the current negotiated Contractual Agreement or Memoranda of Understanding with the employee's bargaining agent:

- A. For an employee whose job classification is not of an executive, administrative, technical, or professional nature:
 - Work performance (must be at least satisfactory).
 - Length of service in present classification and in present organizational unit.
 - Other factors included in the negotiated Memoranda of Understanding affecting the employee's bargaining unit.
- B. For an employee whose job classification is of an executive, administrative, technical, or professional nature:
 - Work performance (must be at least satisfactory).

- Characteristics of the individual that contribute to the efficient operation of the organizational unit.
- Skills and education compared to agency needs.
- Length of service in present classification.
- Length of service in previous classification(s) in the series.

OFFICIAL DATE OF LAYOFF AND EMPLOYEE NOTIFICATION

If a position is abolished in the budget process, the position must be vacated no later than the following July 1. If a position is abolished or unfunded by a special action of the Board of Estimates, the effective date of the layoff would be at least two (2) weeks after the Board action. Appointing officers must ensure the positions are vacated through layoff or transfer. Transfers are subject to approval of the BBMR and the Department of Human Resources (DHR). Changes from full-time to part-time employment are also subject to the approval of the BBMR.

No later than two (2) weeks prior to the effective date of layoff, the agency head or designee must meet with each employee who will be laid-off, or if the employee is not available, a letter is sent to the home address by certified mail, return receipt requested. Whenever possible the agency head or designee should have a witness at the meeting.

IMPLEMENTATION

(AM 205-8-1 provides specific procedures in a work sheet format by areas of responsibility and time periods.)

The agency head has the overall responsibility for determining the job classifications and organizational units from which employees will be laid off. The layoff lists are developed using the criteria specified in this policy or current negotiated agreement as applicable. The agency head must prepare a Memorandum containing the following information on each employee to be laid off: organizational unit, job title, name, employee identification number, position_number, entry date, length of service in present classification, length of service in organizational unit, reason for layoff (example: job abolishment), date of layoff, union or employee organization, date of birth, gender and race. This memo must be sent to the Labor Commissioner at least 4 weeks prior to the layoff. The Equal Opportunity Officer in the Law Department should also receive the memo at least 4 weeks prior to the layoff.

Four (4) weeks prior to the date of layoff, the Equal Opportunity Officer must review the proposed layoff and determine its impact on the agency's Affirmative Action Plan. At least three (3) weeks prior to the date of layoff, the agency will be notified in writing of the impact of the proposed layoff on the agency's Affirmative Action Plan.

The agency head will discuss and receive approval of the list by the Office of the Labor Commissioner (OLC) to verify that selection rules are followed for Civil Service positions. When a selection is invalid, the agency must provide the Labor Commissioner with new name(s) within two (2) working days.

Layoff letters and layoff package information may be found under “HR Tools, Lay-off Packet” on the City’s intranet website at: <http://cob/personnel/>. For large numbers of employees being laid off, the DHR will provide separation workshops.

Three (3) weeks prior to the date of layoff, the Office of the Labor Commissioner (OLC) will verify that the selection of employees for layoff conforms to provisions of the contractual agreements, layoff organizational units and other selection criteria. The Labor Commissioner shall notify the appropriate unions or employee organizations of the proposed layoffs.

AFTER LAYOFF NOTICES ARE DELIVERED

The Agency Head ensures the termination information indicating the layoff reason code is entered into the Human Resources Information System (HRIS) and that a copy of the following is sent to the DHR no later than the date of layoff:

- The signed employee layoff letter.
- Copy of memo to Labor Commissioner.
- Signed and completed Exit Interview Form.

A copy of the following is sent to Payroll no later than the date of layoff:

- Signed and completed Termination Checklist.
- A copy of the signed memo regarding employee indebtedness, if applicable. Also send copy to Law Department.

SECURITY

Steps must be taken to ensure information security, data retention and personal safety. Prior to giving the notice of layoff to affected employees, the agency head or designee must review access to the various City systems including email, e-time, HRIS and others. The agency head or designee must determine if access to any of the systems should be revoked prior to the employee’s last day. MOIT must be notified of the agency’s decision. Also see AM 118-1 and AM 509-2.

If personal safety is a concern, the employee to be laid off may be granted administrative leave with pay from the date the notice is received until the effective date of layoff. The Office of the Labor Commissioner must authorize all requests for administrative leave with pay.

MANDATORY SEPARATION

The agency must remove incumbent employees from positions which are abolished or unfunded. The laid off employee could be transferred to another funded full or part-time position for which the employee qualifies at the same or lower grade level. The DHR shall perform the following actions:

1. Compare final layoff list to Board of Estimates' action. If there are any position numbers for abolishment without an employee listed on the layoff list, ascertain whether the job is vacant. If vacant, no other action will be taken. If filled, BBMR will notify the agency to place the employee on the layoff list or laterally transfer employee to a funded vacant

- position with another position number.
2. If the appointing officer has not processed the lay off for the affected employee by the official date of layoff, the DHR will inform the agency head.

ADJUSTMENT OF AGENCY LAYOFF ROSTER

Both the BBMR and the OLC, who will notify the DHR, must approve any adjustment to the layoff roster.

If approval is granted for the adjustment of an agency layoff roster, the agency head shall immediately notify the employee in person. A confirming LETTER must be presented to the employee in person or sent to the employee's home address by regular mail and certified mail with a return receipt requested.

USE OF LEAVE PRIOR TO DATE OF LAYOFF

Vacation, Personal, and Compensatory Leave

Employees may use accumulated vacation, personal, and compensatory leave prior to or on the date of layoff. Use must be in compliance with the City's policies governing such leave and the applicable Contractual Agreement or Memorandum of Understanding (MOU).

Sick Leave

Employees may use accumulated sick leave prior to the date of layoff, provided that the employee presents satisfactory medical documentation for the days used or the agency head is satisfied with such usage.

LEAVE PAYMENT

Vacation, Personal and Compensatory Leave

Employees will receive full payment for unused accumulated vacation and personal leave, up to the maximum allowed by negotiated MOU, as of the effective date of layoff. This payment will be paid in a lump sum. If applicable, FLSA non-exempt employees will also receive payment for accumulated compensatory time up to the maximum of 240 hours.

Sick Leave

The appropriate negotiated Contractual Agreement or Memoranda of Understanding and employee years of service determine payment for accumulated sick leave on a prorated basis. See AM-205-7, SEPARATION AND PAYMENT AT TERMINATION.

REPAYMENT REQUIREMENT

Any eligible leave payout will be withheld until property is returned, or the employee's final check will be reduced in an amount equal to the indebtedness. If the employee's indebtedness is greater than the final check, the matter will be referred by Payroll to the Law Department, Collection Division.

If an employee is indebted to the City, the employee should be advised to contact the Law Department.

UNEMPLOYMENT COMPENSATION CLAIM

Laid off employees may apply for unemployment compensation from the State of Maryland. To obtain information about eligibility, compensation benefits, and the application process, laid off employees should contact the Maryland State Department of Labor Licensing and Regulation.

REEMPLOYMENT LIST (CIVIL SERVICE ONLY)

All laid off Civil Service employees will be placed on reemployment list(s) in accordance with and in the order determined by DHR. (See Civil Service Rules 39 and 52.)

HEALTH BENEFITS

A laid off employee should contact the DHR, Employee Benefits Division regarding continuation of health insurance coverage. An employee's existing active health benefits coverage ends at the end of the month in which the lay off date occurs, unless informed otherwise by DHR.

RETIREMENT

A laid off employee should contact the Employees' Retirement Systems or Fire and Police Employees' Retirement System for assistance in determining eligibility for retirement benefits.

EMPLOYMENT ELIGIBILITY

The DHR should be contacted for assistance in determining eligibility for other City positions.

RELATED POLICIES

AM-204-2 VACATION LEAVE

AM-204-4 PERSONAL LEAVE

AM-204-14 SICK LEAVE

AM-205-7 SEPARATION AND PAYMENT AT TERMINATION

AM-205-9 REHIRING IN A CIVIL SERVICE CLASS AFTER LAYOFF

AM-208-1 LEAVE OF ABSENCE - PART II

AM-232-1 PERMANENT POSITION